

## **CHAPTER 89-07-02 WEATHER MODIFICATION OPERATIONS**

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**89-07-02-01. General provisions.** This chapter applies to any weather modification operation conducted wholly or partially within North Dakota. This chapter must be applied in conjunction with North Dakota Century Code chapter 61-04.1.

**History:** Effective November 1, 1988.

**General Authority:** NDCC 28-32-02, 61-04.1-08(3)

**Law Implemented:** NDCC 61-04.1-02, 61-04.1-08(3)

**89-07-02-02. Definitions.** As used in this chapter, the following words have the meaning given to them below unless otherwise made inappropriate by use or context. Words not defined in this section have the meaning given to them in North Dakota Century Code section 61-04.1-03.

1. "Applicant" means any person who applies for a professional weather modification license.
2. "Board" means the atmospheric resource board.

3. "Director" means the executive director of the atmospheric resource board.
4. "License" means a weather modification license.
5. "Licensee" means a person to whom a license has been issued.
6. "Permit" means a weather modification permit.
7. "Permittee" means a person to whom a permit has been issued.
8. "Operations area" means an area in which weather modification operations are conducted.
9. "Target area" means an area in which the effects of weather modification are desired.
10. "Weather modification apparatus" means any device used to dispense any chemical material used to modify any weather condition.

**History:** Effective November 1, 1988.

**General Authority:** NDCC 28-32-02, 61-04.1-08(3)

**Law Implemented:** NDCC 61-04.1-03

**89-07-02-03. Administration.** Except as otherwise provided in subsection 4 of section 89-07-02-15 and subsection 3 of section 89-07-02-26, the powers and duties of the board must be exercised by the director and such other persons as the director may direct.

**History:** Effective November 1, 1988.

**General Authority:** NDCC 28-32-02, 61-04.1-08(3)

**Law Implemented:** NDCC 61-04.1-08(3)

**89-07-02-04. Exempt activities.** Any person intending to conduct any exempt activities under the provisions of North Dakota Century Code section 61-04.1-12 shall furnish notice of such intention to the board at least thirty days prior to the time such activities are to begin. Notice must consist of the following information and such other information as the board deems necessary:

1. The name and address of the person giving notice.
2. The name and address of the person who will conduct the activity.
3. A description of the procedures to be used in the operation or the research and development.
4. A description of the object of the activity.

5. The legal description of, and a map showing the area of, the operations area and target area, if any.
6. The date upon which the activity is to commence and its approximate duration.
7. A description of the equipment to be used in conducting the activity.

**History:** Effective November 1, 1988.

**General Authority:** NDCC 28-32-02, 61-04.1-08(3), 61-04.1-12

**Law Implemented:** NDCC 61-04.1-12

**89-07-02-05. Approval of exempt activities.** No weather modification activity intended to be conducted pursuant to the provisions of North Dakota Century Code section 61-04.1-12 must be commenced without prior approval of the board if such activity is to be conducted in the out of doors with weather modification apparatus. The board may approve only those activities which provide for the protection of the health, safety, and welfare of those persons who may be affected by such activities, and which otherwise comply with the provisions of North Dakota Century Code section 61-04.1-12.

**History:** Effective November 1, 1988.

**General Authority:** NDCC 28-32-02, 61-04.1-08(3)

**Law Implemented:** NDCC 61-04.1-12, 61-04.1-16

**89-07-02-06. Field presence required.** Every person intending to conduct operations in this state shall designate to the board, on forms furnished by the board, at least one natural person who shall at all times be physically present during all operations for which a permit is required and who will be the contractor's immediate point of contact in the field. The individual so designated will be fully appraised of the status of the contractor's project equipment and personnel at all times, and will coordinate the contractor's field activities.

**History:** Effective November 1, 1988; amended effective February 1, 1999.

**General Authority:** NDCC 28-32-02, 61-04.1-08(3), 61-04.1-14

**Law Implemented:** NDCC 61-04.1-11, 61-04.1-14

**89-07-02-07. Criteria for issuance of license.** The competence of any applicant to engage in weather modification operations must be demonstrated to the board pursuant to North Dakota Century Code section 61-04.1-14 upon the showing that any natural person or persons designated by the applicant, who will be in the full-time employment solely of the applicant during the project period, and who will oversee the applicant's actions during the project has or have:

1. A minimum of one year of field experience in the management and control of weather modification operations or research; and
2. One of the following requirements:

- a. Four additional years' experience in weather modification operations or research;
- b. A degree in mathematics, engineering, or the physical sciences, plus two years' additional experience in weather modification operations or research; or
- c. A degree in meteorology; or a degree in engineering, mathematics, or the physical sciences which includes at least twenty-five semester hours of coursework in meteorology.

At least one such person designated by the applicant and licensed by the board at all times and days during which the project is ongoing shall be available for immediate consultation by the board, at a location made known to the board by the contractor.

In determining competency, the board may also consider any other items to be set forth in a license application pursuant to section 89-07-02-08.

**History:** Effective November 1, 1988; amended effective February 1, 1999.

**General Authority:** NDCC 28-32-02, 61-04.1-08(3), 61-04.1-14

**Law Implemented:** NDCC 61-04.1-14

**89-07-02-08. Application procedure.** An applicant for a license shall apply to the board on forms supplied by the board. The forms may require relevant information about the knowledge and experience of the applicant and the natural person designated under section 89-07-02-06, and must include the following:

1. Educational background, at the college and graduate level, of both the natural person designated by the applicant and the other employees of the applicant. This includes the dates of attendance and of graduation, the major and minor subjects, including the number of semester hours of meteorological coursework, the degrees received, and the titles of any thesis or dissertation.
2. Experience in weather modification or related activities of both the natural person designated by the applicant and the other employees of the applicant. Attention should be given to experience with reference to meteorological conditions typical of North Dakota. The applicant should list the dates of each position held by the natural person designated pursuant to section 89-07-02-06, the title of position (indicate whether it was of subprofessional or professional level), the name and address of the employer, a description of the work done (indicate both the magnitude and complexity of the work and the duties and degree of responsibility for the work), and the name and address of the supervisor.

3. Scientific or engineering society affiliations of the natural person designated by the applicant and the grade of membership in and certification by each.
4. Publications, patents, and reports of the natural person designated by the applicant.
5. Three references who will attest to such natural person's character, knowledge, and experience.
6. A list of all jurisdictions in which the applicant has previously filed application for a professional weather modification license. The result of the applications should be indicated.
7. Indication whether a professional weather modification license issued to the applicant in any jurisdiction has ever been suspended or revoked or whether there has been refusal to renew such a license by any jurisdiction. If the answer is yes, the circumstances must be explained in detail.

**History:** Effective November 1, 1988.

**General Authority:** NDCC 28-32-02, 61-04.1-08(3), 61-04.1-14

**Law Implemented:** NDCC 61-04.1-14

**89-07-02-09. Procedure for issuance.** The board shall evaluate the applications, including responses from any references given by the applicant. On the basis of all such information the board, within thirty days of receipt of an application, shall determine whether the natural person designated by the license applicant under section 89-07-02-06 meets the education and experience criteria established by subsections 1 and 2 of section 89-07-02-07 and whether such person and the applicant possess the knowledge and experience necessary to engage in weather modification operations. The board shall issue a license to the applicant who satisfies the requirements of this chapter and North Dakota Century Code section 61-04.1-14. If an applicant for a license or the natural person designated by the applicant do not satisfy any of such requirements, the board shall deny the license.

**History:** Effective November 1, 1988.

**General Authority:** NDCC 28-32-02, 61-04.1-08(3), 61-04.1-14

**Law Implemented:** NDCC 61-04.1-14

**89-07-02-10. Renewal of license.** Forty-five days before expiration of licenses, the board shall mail license application forms to all licensees and request each licensee to complete the form and file the original with the board. The board shall evaluate the available data about the licensee and the natural person designated by the license applicant under section 89-07-02-06 and shall issue a renewal license within thirty days of receipt of the application to each applicant who pays the license fee established by subsection 1 of North Dakota Century Code section 61-04.1-14 and who has the qualifications necessary for issuance of an

original license. The board shall deny a renewal license within thirty days of receipt of the application of each applicant who does not pay the renewal fee or who does not possess the qualifications necessary for issuance of an original license or who does not designate a natural person, pursuant to section 89-07-02-06, who satisfies the requirements of section 89-07-02-07.

**History:** Effective November 1, 1988.

**General Authority:** NDCC 28-32-02, 61-04.1-08(3), 61-04.1-14

**Law Implemented:** NDCC 61-04.1-14

**89-07-02-11. Responsibility of controller.** The natural person designated by the license applicant under section 89-07-02-06 is deemed by the board to be in control of and primarily responsible for operations conducted under the terms of any permit. However, nothing in this section may be construed to prevent appropriate enforcement of any regulation, limitation, permit condition, or order against either the permittee, or licensee, whether or not such licensee is a natural person.

**History:** Effective November 1, 1988.

**General Authority:** NDCC 28-32-02, 61-04.1-08(3)

**Law Implemented:** NDCC 61-04.1-18, 61-04.1-37

**89-07-02-12. Suspension, revocation, refusal to renew a license.** In addition to the reasons cited in North Dakota Century Code section 61-04.1-15, the board may suspend, revoke, or refuse to renew a license for violation of any permit or permit condition.

**History:** Effective November 1, 1988.

**General Authority:** NDCC 28-32-02, 61-04.1-08(3)

**Law Implemented:** NDCC 61-04.1-14, 61-04.1-15

**89-07-02-13. Restoration of license.** At any time after the suspension or revocation of a license or after refusal to renew a license, the board may restore it to the licensee or renew it upon a finding that the requirements for issuance of an original license have been met by the licensee.

**History:** Effective November 1, 1988.

**General Authority:** NDCC 28-32-02, 61-04.1-08(3)

**Law Implemented:** NDCC 61-04.1-14

**89-07-02-14. Application for permit.** Application for a weather modification permit must be made on forms furnished by the board. A properly executed application must be submitted to the board by every applicant. The application may contain such information as the board deems necessary, and must include the following information:

1. Name and address of the applicant.
2. Whether a weather modification operational permit issued to the applicant in any jurisdiction has ever been suspended or revoked

or whether there has been refusal to renew such a permit by any jurisdiction. If the answer is yes, the circumstances must be explained in detail.

3. If the applicant is a corporation, whether it is licensed to do business in North Dakota.
4. Whether a license has been issued under North Dakota Century Code section 61-04.1-14, and if so, the names, addresses, and professional license numbers of the controller or controllers.
5. Whether professional weather modification licenses issued to such licensee or licensees in any jurisdiction have ever been suspended or revoked or whether there has been refusal to renew such license or licenses by any jurisdiction. If the answer is yes, the circumstances must be explained in detail.
6. Whether proof of financial responsibility has been furnished in accordance with section 89-07-02-22 and North Dakota Century Code section 61-04.1-19.
7. If the operation will be conducted under a contract, the value of the contract.
8. If the operation will not be conducted under a contract, an estimate of the costs of the operation and information as to how the estimate was made.
9. Whether the applicant has paid the application fee.
10. Whether the applicant has North Dakota workforce safety and insurance coverage.
11. A copy of any promotional and advertising material used in connection with negotiations for the contract, if any.
12. Whether the applicant has furnished a performance bond, as required by subsection 4 of section 89-07-02-26.
13. Whether the applicant has furnished the bid bond, as required by North Dakota Century Code section 61-04.1-35.
14. Whether the applicant has registered all pilots and aircraft to be used in the operation for which the permit is sought with the North Dakota aeronautics commission.
15. A complete and detailed operational plan for the operation which includes:

- a. The nature and object of the operation.
  - b. The legal descriptions of, and a map showing the operations area, and the target area.
  - c. The approximate starting date of the operation and its anticipated duration.
  - d. The kind of seeding agent or agents intended for use and the anticipated rate of their use.
  - e. A list of equipment which will be used and the method or methods of seeding for which they will be used.
  - f. An emergency shutdown procedure which states conditions under which operations will be suspended because of possible danger to the public health, safety, and welfare or to the environment.
  - g. The means by which the operation plans will be implemented and carried out; such as the location of the main operational office and any other offices used in connection with the operation, the location of such ground equipment as seeding generators, radar and evaluation instrumentation, the number and kinds of aircraft which will be used and the extent to which weather data will be made available to the licensees; and other personnel carrying out the project.
  - h. How conduct of the operation will interact with or affect other weather modification operations.
16. Such additional information as will assist the board in deciding whether or not to issue the permit.

**History:** Effective November 1, 1988; amended effective July 1, 2006.

**General Authority:** NDCC 28-32-02, 61-04.1-08(3)

**Law Implemented:** NDCC 61-04.1-16

#### **89-07-02-15. Procedure for issuance.**

1. **Notice.** The board shall give notice of its consideration of an application in accordance with North Dakota Century Code section 61-04.1-17. Notice must be given once a week for two consecutive weeks. The notice must:
  - a. Describe the primary target area.
  - b. Describe the operations area.



- c. Specify the period of operation including starting and ending dates.
  - d. Describe the general method of operation.
  - e. Describe the intended effect of the operation.
  - f. State the name of the proposed permittee.
2. **Hearings.** The board shall allow twenty days for public comment, in accordance with North Dakota Century Code section 61-04.1-17, from the date of the last publication of the notice. Any hearing held upon objection received by the board or any hearing held upon the board's own motion must be held upon at least ten days' notice in the county newspaper in which notice of consideration of the application was published. At any such hearing, the board shall make a brief record of testimony received, and shall consider all such testimony in its decision on the permit application.
3. **Director's recommendation.** At the close of the public comment period provided for in North Dakota Century Code section 61-04.1-17, the director of the atmospheric resource board shall review all applications for permits which have been received and shall recommend approval or disapproval of such applications and the reasons therefor.
4. **Final action by board.** The board shall take final action on all applications for permits for which notice of consideration was published, pursuant to North Dakota Century Code section 61-04.1-17, within forty-five days of the close of the public comment period. Approval of applications considered must be by majority vote. In acting on any such applications, the board shall consider any recommendations made by the director of the board and all testimony received at any hearing pursuant to North Dakota Century Code section 61-04.1-17. The board may issue a permit only if it determines that the requirements of subsection 2 of North Dakota Century Code section 61-04.1-16 have been met.

**History:** Effective November 1, 1988.

**General Authority:** NDCC 28-32-02, 61-04.1-08(3)

**Law Implemented:** NDCC 61-04.1-16, 61-04.1-17

**89-07-02-16. Permit form.** Each permit shall set forth the permit number, effective period of the permit, name of the permittee, the name of the licensee and the license number, the location of the operation, and such other information, terms, or conditions as the board shall deem appropriate.

**History:** Effective November 1, 1988.

**General Authority:** NDCC 28-32-02, 61-04.1-08(3)

**Law Implemented:** NDCC 61-04.1-16

**89-07-02-17. Permit conditions.** The board may attach to any permit such conditions as it may deem appropriate, including any conditions concerning method and time of operation, target and operation areas, safety precautions, and recordkeeping. The Operations Manual for Hail Decrease and Precipitation Increase is hereby made a condition of all permits issued and all permits are subject thereto. Violation of any permit or any permit condition may result in permit revocation or suspension or other appropriate enforcement action by the board.

**History:** Effective November 1, 1988.

**General Authority:** NDCC 28-32-02, 61-04.1-08(3)

**Law Implemented:** NDCC 61-04.1-16(2)

**89-07-02-18. Permit expiration.** All permits which have expired pursuant to North Dakota Century Code section 61-04.1-16 are nonrenewable.

**History:** Effective November 1, 1988.

**General Authority:** NDCC 28-32-02, 61-04.1-08(3)

**Law Implemented:** NDCC 61-04.1-16

**89-07-02-19. Suspension - Revocation - Modification.** In addition to the reasons cited in North Dakota Century Code section 61-04.1-18, the board may suspend, revoke, or modify any permit or any provision or condition of a permit if it appears to the board the permittee has violated any of the provisions of the North Dakota Century Code or the terms or conditions of any permit held by the permittee.

**History:** Effective November 1, 1988.

**General Authority:** NDCC 28-32-02, 61-04.1-08(3)

**Law Implemented:** NDCC 61-04.1-16, 61-04.1-18

**89-07-02-20. Automatic suspension of permit.** Any permit issued to any person under this chapter is suspended automatically if such person's weather modification license expires or is suspended, revoked, or not renewed by the board. Automatic suspension shall result in the case of a permit issued to a corporation, partnership, or other business association, if the natural person designated as being in control of the operation in such business association's application for a weather modification license becomes incapacitated, leaves the person's employment, or is in any way unable to continue in control of the operation. A permit of a business association suspended under such circumstances may be reinstated by the nomination of replacement personnel in accordance with section 89-07-02-06.

**History:** Effective November 1, 1988.

**General Authority:** NDCC 28-32-02, 61-04.1-08(3)

**Law Implemented:** NDCC 61-04.1-16, 61-04.1-18

**89-07-02-21. Restoration of permit.** At any time after the suspension, revocation, or modification of a permit, the board may restore it to the permittee, or delete any modification thereof, upon a finding that the requirements for issuance of

an original permit have been met by the permittee, or that the conditions requiring modification no longer exist.

**History:** Effective November 1, 1988.

**General Authority:** NDCC 28-32-02, 61-04.1-08(3)

**Law Implemented:** NDCC 61-04.1-16, 61-04.1-18

**89-07-02-22. Proof of financial responsibility.** Proof of financial responsibility is made by showing to the satisfaction of the board that the permittee has the ability to respond in damage to liability which might reasonably result from the operation for which the permit is sought. Such proof of financial responsibility may be shown by any of the following:

1. Presentation to the board of, or proof of purchase of, a prepaid noncancelable insurance policy or a corporate surety bond issued by a company against whom service of legal process may be made in North Dakota against such liabilities in an amount five times the value of an operation conducted under contract or in an amount five times the estimated costs of an operation not conducted under contract.
2. Depositing with the board cash or negotiable securities in an amount five times the value of an operation conducted under contract or in an amount five times the estimated costs of an operation not conducted under contract.
3. Any other manner approved by the board.

**History:** Effective November 1, 1988.

**General Authority:** NDCC 28-32-02, 61-04.1-08(3)

**Law Implemented:** NDCC 61-04.1-16, 61-04.1-19

**89-07-02-23. Records.**

1. **Daily log.** Each permittee shall fill in and retain a daily log of weather modification activities for each unit of weather modification apparatus used during an operation. Such log must include a record of the following information for each day of weather modification operations:
  - a. Date of the weather modification activity.
  - b. Each aircraft flight track and location of each radar unit during each modification mission. Maps may be used.
  - c. Local time when modification activity began and ended. For intermittent operations, the beginning and ending time of the total sequence are acceptable.
  - d. Duration of operation of each unit of weather modification apparatus, in hours and minutes.

- e. Description of type of modification agent or agents used.
  - f. Rate of dispersal of agent during the period of actual operation of weather modification apparatus, by hour or other appropriate time period.
  - g. Total amount of modification agent used. If more than one agent was used, report total for each type separately.
  - h. Local time when any radar monitoring operations were turned on and turned off.
  - i. Type of clouds modified, that is, whether they were stratiform, isolated cumuliform, organized cumuliform, or other types of clouds.
  - j. Remarks indicating such operational problems as equipment failure, weather conditions not conducive to successful performance of the operation, personnel problems, and the like.
2. **Monthly totals.** Monthly totals must be kept on the basis of the daily logs, listing the total:
- a. Days during month in which operation conducted.
  - b. Time of operation.
  - c. Amount of each kind of agent used.
  - d. Average rate of dispersal of each kind of agent used.
  - e. Days of each type of cloud treated.
  - f. Duration of operation of each unit of weather modification apparatus, in hours and minutes.
3. **Addresses of participants.** Each permittee shall keep a roster of the names and North Dakota addresses of all employees participating in the state on an operation for which a permit has been issued.
4. **Inspection.** Duly authorized agents of the board have the authority to enter and inspect any equipment and to inspect any records required by this section and to make copies thereof.
5. **Exempted weather modification activities.** All persons conducting weather modification activities exempted by the board under the provisions of North Dakota Century Code section 61-04.1-12 shall

record and maintain all of the records required of any permittee by this section.

**History:** Effective November 1, 1988; amended effective July 1, 2006.

**General Authority:** NDCC 28-32-02, 61-04.1-08(3)

**Law Implemented:** NDCC 61-04.1-08(3)

#### **89-07-02-24. Reports.**

1. **Monthly.** Within ten days after the conclusion of each calendar month, each permittee shall submit a written report to the board which must include:
  - a. A copy of the summary record prepared under subsection 2 of section 89-07-02-23.
  - b. A copy of the roster of the names and North Dakota addresses of all employees participating in state operations which were prepared under subsection 2 of section 89-07-02-23.
  - c. A narrative account of the manner in which operations during the month did not conform to the operational plan filed in accordance with subsection 15 of section 89-07-02-14.
2. **Final.** Within thirty days after final completion of any operation, each permittee shall file with the board a final report on the operation which must include:
  - a. Copies of the logs prepared in accordance with subsection 1 of section 89-07-02-23, copies of the totals for the entire operational period from the monthly summary records prepared under subsection 2 of section 89-07-02-23, and a narrative summary of permittee activities during the operational period.
  - b. A copy of the federal final activity report form filed with the national oceanic and atmospheric administration in accordance with the rules adopted under the authority of Public Law 92-205.
  - c. A narrative account of the manner in which the operation did not conform to the operational plan filed in accordance with subsections 1 through 15 of section 89-07-02-14.
3. **Exempted weather modification activities.** The board may, in its discretion, require persons operating weather modification activities exempted under sections 89-07-02-04 and 89-07-02-05, but who have

been required to keep records pursuant to this section, to file all or any part of such records with the board.

**History:** Effective November 1, 1988; amended effective July 1, 2006.

**General Authority:** NDCC 28-32-02, 61-04.1-08(3)

**Law Implemented:** NDCC 61-04.1-08(3)

#### **89-07-02-25. Bid procedure.**

##### **1. Advertisement and request for bid.**

- a. In all cases where the board shall undertake to contract for services, supplies, or materials, the estimated cost of which shall exceed ten thousand dollars for any one contract, the board shall advertise for bids for such services, supplies, or materials. Such advertisement must be placed for three consecutive weeks in the official newspaper of the county in which the board's offices are located and in at least one official newspaper in general circulation in the state. In the case of contracts for weather modification operations, such advertisement must also be placed in some trade publication of general circulation among those groups most likely to bid on the contract. The advertisement must state:
  - (1) That any prospective bidders may secure such contract specifications and requirements as may be available by applying in writing to the offices of the board.
  - (2) The place where and the day and hour when the bids will be opened.
  - (3) That the right of the board to reject any and all bids is reserved.
  - (4) Each bid must be accompanied by a bidder's bond in a sum equal to five percent of the full amount of the bid, executed by the bidder as principal and by a surety company authorized to do business within this state, conditioned that if the bid be accepted and the contract awarded to the bidder, the bidder, within ten days' notice of award, will execute and effect a contract in accordance with the terms of the bidder's bid and a contractor's bond in the manner specified by subsection 4 of section 89-07-02-26.
  - (5) No bid will be read or considered which does not fully comply with the above provisions concerning bonding and no contract will be awarded to any person who has not complied with any applicable licensing requirements of the board.

- b. In the case of contracts for weather modification operations, the board may, in addition to the requirements of subdivision a, prepare a request for bid in which it shall describe the minimum requirements for aircraft, radar, communications, and other equipment, operational and such other requirements as it may deem necessary. Such request for bid must include those items of information specified in paragraphs 2 through 5 of subdivision a. The request may be sent by the board to those persons having a recognized interest in operations contracts.
2. **Opening of bids.** At the time and place designated in the request for bids, the board shall conduct a public hearing at which it shall open all bids received. After opening each bid, the board shall determine whether such bid meets the minimum requirements set forth in North Dakota Century Code chapter 61-04.1, this chapter, and the request for bid, and then read aloud each bid meeting such minimum requirements. Bids which do not meet such minimum requirements may not be read or considered.

**History:** Effective November 1, 1988.

**General Authority:** NDCC 28-32-02, 61-04.1-08(3)

**Law Implemented:** NDCC 61-04.1-33, 61-04.1-35

#### **89-07-02-26. Award of contracts.**

1. **Deviation from technical requirements.** Any or all bids may be rejected by the board on the basis of technical inadequacy or other failure to comply with the specifications included in the request for bids.
2. **Point scoring system to be used.** Bidders for weather modification operations contracts must be evaluated on the basis of the amount of the bid submitted and a system of points allotted to each bidder for evaluation criteria established by the board. Sole authority for establishment of point values and scoring shall rest with the director. Point scores assigned are final and nonnegotiable. Previous experience and performance must be a criteria to be considered in scoring each bidder. The bidder scoring the lowest cost per point must be awarded the contract in accordance with subsection 3.
3. **Low bid preference for North Dakota bidders.** In awarding any contract, the board shall award it to the lowest and best bidder, and shall, if all other factors are equal, give that preference for North Dakota bidders established by North Dakota Century Code section 44-08-01.
4. **Contractor's bond.** Before the board shall award any contract, it shall require the contractor to furnish a surety bond for the faithful performance of the contract in an amount up to twenty-five percent of the contract price, conditioned that the contractor and the contractor's agents will, in all respects, faithfully perform all weather modification

contracts undertaken with the board and will comply with all provisions of North Dakota Century Code chapter 61-04.1, this chapter, and the contract entered into by the board and the contractor. Should the contract involve the erection, repair, or alteration of any public improvement, the surety bond must be in the full amount of the contract price.

**History:** Effective November 1, 1988; amended effective July 1, 2006.

**General Authority:** NDCC 28-32-02, 61-04.1-08(3)

**Law Implemented:** NDCC 44-08-01, 61-04.1-33, 61-04.1-34, 61-04.1-35